

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN  
FRANCISCO, et al.,

Plaintiffs,

v.

PURDUE PHARMA L.P., et al.,

Defendants.

Case No. 18-cv-07591-CRB (JSC)

**ORDER RE: EMERGENCY MOTION  
FOR PROTECTIVE ORDER RE: DR.  
DAVID KESSLER DEPOSITION**

Re: Dkt. No. 427

The Court is in receipt of the Manufacturing Defendants' emergency motion for a protective order regarding Plaintiffs' cross-notice of the deposition of Dr. David Kessler. (Dkt. No. 427.) The Plaintiffs' Executive Committee filed an emergency motion in the MDL court to take Dr. Kessler's deposition on January 13, 2021 based on the "strong likelihood" of his impending unavailability due to his forthcoming appointment to a position with federal government. (Dkt. Nos. 427-9, 427-10.) Although Plaintiffs have not identified Dr. Kessler as an expert in this particular case, they filed a cross-notice for his trial preservation deposition.

The MDL court held a hearing yesterday regarding the Executive Committee's emergency motion. In the court's order granting that motion, the court stated that:

Plaintiffs have stipulated they will not solicit testimony from Dr. Kessler regarding Distributor and Pharmacy Defendants. Plaintiffs have further stipulated they will not solicit testimony specific to any jurisdiction, and the scope of testimony will be limited to issues of general causation.

(Dkt. No. 427-10 at 3.) In light Plaintiffs' stipulation that no testimony will be solicited with respect to any jurisdiction (including San Francisco), there is no basis for this Court to issue a protective order to enjoin the deposition taking place in the MDL action. If Plaintiffs later seek to admit Dr. Kessler's deposition testimony from the MDL action in this case, the Court can address

its admissibility at that time. Defendants' objection is preserved.

This Order disposes of Docket No. 427.

**IT IS SO ORDERED.**

Dated: January 12, 2021

  
JACQUELINE SCOTT CORLEY  
United States Magistrate Judge

United States District Court  
Northern District of California